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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RONALD STEVEN COK and PETER KARL TRAEGL

Appeal 2016-007403
Application 13/074,425
Technology Center 2100

Before JOHN A. EVANS, CATHERINE SHIANG, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, and 4–33, i.e., all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify the real party in interest as Kodak Alaris Inc. App. Br. 1.

STATEMENT OF THE CASE

The Invention

According to the Specification, the invention “pertains to the field of digital imaging and more particularly to methods for a group of people to provide content and annotations useful for forming a multi-media image product.” Spec. 1:12–14.² The Specification explains that “a multi-media image collection in a digital storage system” may include multi-media content received from “from two or more of the plurality of individuals” and “the multi-media content includes one or more images, audio annotations, and text annotations.” Abstract.

Exemplary Claim

Independent claim 1 exemplifies the subject matter of the claims under consideration and reads as follows:

1. A method for forming a multi-media image product, comprising:
 - using a processor to provide a storage location for a multi-media image collection in a digital storage system;
 - associating an identifier with the storage location;
 - distributing the identifier to a plurality of individuals;
 - receiving a plurality of multi-media content together with either the identifier or information associated with the identifier from two or more of the plurality of individuals to whom the identifier was distributed, wherein the received multi-media content includes one or more received images, and audio or text annotations;

² This decision uses the following abbreviations: “Spec.” for the Specification, filed March 29, 2011; “Final Act.” for the Final Office Action, mailed July 30, 2015; “App. Br.” for the Appeal Brief, filed December 17, 2015; “Ans.” for the Examiner’s Answer, mailed June 22, 2016; and “Reply Br.” for the Reply Brief, filed July 26, 2016.

storing the received multi-media content in the storage location and associating the multi-media content with the multi-media collection;

providing rules for automatically associating at least one received audio or text annotation with one or more of the received image, wherein the rules for associating the audio annotations are different from the rules for associating the text annotations and wherein the rules automatically limit the number or length of the text or audio annotation;

automatically limiting at least one received audio or text annotation by applying the rules to the received audio or text annotation with the processor;

associating the limited text or audio annotation with a received image in accordance with the rules;

storing the limited text or audio annotation in the storage location in association with the associated received image; and

making a multi-media image product with the processor using at least a portion of the multi-media content stored in the multi-media collection and associated limited text or audio annotations, wherein the limited text or audio annotations are associated with one or more of the received images in accordance with the rules,

wherein the rules for associating the text annotations specify that textual annotations can be displayed in locations not associated with any images but with the multi-media collection in the multi-media image product.

App. Br. 9 (Claims App.).

The Prior Art Supporting the Rejections on Appeal

As evidence of unpatentability, the Examiner relies on the following prior art:

Atkins et al. (“Atkins”)	US 2003/0097410 A1	May 22, 2003
Bodie	US 2006/0092291 A1	May 4, 2006
Gausman et al. (“Gausman”)	US 2010/0023553 A1	Jan. 28, 2010

Phone Commenting, Thread & URL Import, VOICETHREAD BLOG (Dec. 3, 2007), <https://web.archive.org/web/20130118054224/http://blog.voicethread.com/2007/> (“VoiceThread”)

The Rejections on Appeal

Claims 1, 2, 4–7, and 9–31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Atkins and Bodie. Final Act. 3–17; Ans. 4–19.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Atkins, Bodie, and VoiceThread. Final Act. 18; Ans. 19.

Claim 32 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Atkins, Bodie, and Gausman. Final Act. 18–19; Ans. 20.

Claim 33 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Atkins, Bodie, and Official Notice. Final Act. 19; Ans. 20–21.

ANALYSIS

We have reviewed the rejections of claims 1, 2, and 4–33 in light of Appellants’ arguments that the Examiner erred. For the reasons explained below, we disagree with Appellants’ assertions regarding error by the Examiner. We adopt the Examiner’s findings in the Final Office Action (Final Act. 3–19) and the Answer (Ans. 4–23). We add the following to address and emphasize specific findings and arguments.

The Rejection of Claims 1, 2, 4–7, and 9–31 Under 35 U.S.C. § 103(a)

TEXTUAL ANNOTATIONS DISPLAYED IN LOCATIONS NOT ASSOCIATED
WITH ANY IMAGES BUT WITH THE MULTI-MEDIA COLLECTION

Appellants argue that the Examiner erred in rejecting independent claim 1 because Atkins does not teach that “textual annotations can be displayed in locations not associated with any images but with the multi-media collection in the multi-media image product,” as recited in claim 1.

App. Br. 5–6; Reply Br. 5–6. Appellants concede that Atkins teaches “an online site separate from the users’ digital image files for receiving text annotations.” App. Br. 6 (citing Atkins ¶¶ 11, 39); Reply Br. 6 (citing Atkins ¶¶ 11, 39). Appellants contend, however, that “Atkins does not teach that the text annotations are displayed separately from images in the multi-media collection, but still are displayed in the corresponding multi-media image product as now claimed.” App. Br. 6; *see* Reply Br. 6. Appellants also contend that Atkins teaches “leaving comments directly next to the images” comprising an online photo album or “in a website separate from” the online photo album. App. Br. 6 (citing Atkins ¶¶ 61–62). Appellants additionally contend that comments concerning an album according to Atkins are “unlikely” to be “directly associated” with the album because Atkins explains that typical chat-style messaging may generate “excessive message traffic . . . annoying many of the participants.” Reply Br. 6 (citing Atkins ¶¶ 63–64).

Appellants’ contentions do not persuade us of Examiner error. The Examiner finds that Bodie teaches “making a multi-media image product” using “limited text or audio annotations” associated with “received images” according to claim 1. Final Act. 5–6 (citing Bodie ¶¶ 30, 36, Fig. 3); Ans. 6–8 (citing Bodie ¶¶ 30, 36, Fig. 3). More particularly, Bodie teaches associating captions (corresponding to the claimed “textual annotations”) with digital photos and “overlaying the caption on the image for displaying or printing.” Bodie ¶ 36. Further, the Examiner finds that Atkins teaches that a user may leave comments (corresponding to the claimed “textual annotations”) about a particular photo or an album (corresponding to the claimed “multi-media image product”). Final Act. 3–4 (citing Atkins ¶¶ 11,

39); Ans. 4–5, 22–23 (citing Atkins ¶¶ 11, 37–39, 63). Atkins discloses that (1) a user may “comment about the shared collection” of digital photos, i.e., an album, and (2) multiple users may exchange “online comments about the album(s) or digital photo(s).” Atkins ¶¶ 11, 37, 39.

“[T]he test for combining references is not what the individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art.” *In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971); *see In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Here, the combination of disclosures in Atkins and Bodie teaches or suggests that “textual annotations can be displayed in locations not associated with any images but with the multi-media collection in the multi-media image product,” as recited in claim 1. *See* Final Act. 3–7; Ans. 4–8. Comments concerning an album according to Atkins would appear apart from photo captions in a multi-media image product according to Bodie. *See* Atkins ¶¶ 11, 37, 39; Bodie ¶¶ 30, 36; *see also* Ans. 22–23. Under a broad but reasonable interpretation of claim 1, that satisfies the requirement for “display[] in locations not associated with any images but with the multi-media collection in the multi-media image product.”

“[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000).

Appellants’ contention that comments concerning an album according to Atkins are “unlikely” to be “directly associated” with the album disregards Atkins’ disclosure that “all the digital photos and comments . . . reside in a single centralized repository.” Atkins ¶ 62; *see* Reply Br. 6. As for Atkins’ explanation that typical chat-style messaging may generate

“excessive message traffic . . . annoying many of the participants,” Atkins discloses an alternative “chat model” that “allows the back-and-forth responses among only those users who want to actively pursue the notification links” Atkins ¶¶ 63–64; *see* Reply Br. 6.

SUMMARY FOR INDEPENDENT CLAIM 1

For the reasons discussed above, Appellants’ arguments have not persuaded us that the Examiner erred in rejecting claim 1 for obviousness based on Atkins and Bodie. Hence, we sustain the rejection of claim 1.

INDEPENDENT CLAIM 24 AND DEPENDENT CLAIMS 2, 4–7, 9–23, AND 25–31

Appellants do not make any separate patentability arguments for independent claim 24 or dependent claims 2, 4–7, 9–23, and 25–31. App. Br. 5–6; Reply Br. 5–7. Because Appellants do not argue the claims separately, we sustain the rejection of claims 2, 4–7, and 9–31 for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

The Rejections of Claims 8, 32, and 33 Under 35 U.S.C. § 103(a)

For the obviousness rejections of dependent claims 8, 32, and 33 based in part on Atkins and Bodie, Appellants assert that each claim “is allowable as it is dependent upon allowable base claim 1.” App. Br. 7; Reply Br. 7. Appellants do not make any separate patentability arguments for these dependent claims. App. Br. 5–7; Reply Br. 5–7. Because Appellants do not argue the claims separately, we sustain the rejections of claims 8, 32, and 33 for the same reasons as claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

DECISION

We affirm the Examiner’s decision to reject claims 1, 2, and 4–33.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED